

B1040 (FORM 1040) (12/15)

| <b>ADVERSARY PROCEEDING COVER SHEET</b><br>(Instructions on Reverse)   |  | <b>ADVERSARY PROCEEDING NUMBER</b><br>(Court Use Only) |  |  |
|--|--|--|--|--|
| <b>PLAINTIFFS</b><br><br>HTLF BANK   | <b>DEFENDANTS</b><br>2B FARMS, A GENERAL TEXAS PARTNERSHIP,<br>TERRY ROBINSON and ANGELA ROBINSON  |  |  |  |
| <b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.)<br>C. DUNHAM BILES<br>STEPTOE & JOHNSON PLLC<br>500 NORTH AKARD ST., SUITE 3200, DALLAS, TX 75201<br>PHONE: 214-251-8514  | <b>ATTORNEYS</b> (If Known)<br>TIMOTHY T. PRIDEMORE<br>TODD J. JOHNSTON<br>1722 BROADWAY, LUBBOCK, TX 79408<br>806-762-0214  |  |  |  |
| <b>PARTY</b> (Check One Box Only)<br><input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin<br><input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other<br><input type="checkbox"/> Trustee   | <b>PARTY</b> (Check One Box Only)<br><input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin<br><input type="checkbox"/> Creditor <input type="checkbox"/> Other<br><input type="checkbox"/> Trustee   |  |  |  |
| <b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)<br><br><div style="text-align: center; padding: 20px 0;">Breach of contract; recovery of collateral</div>  |  |  |  |  |
| <b>NATURE OF SUIT</b><br>(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)  |  |  |  |  |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b><br/> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property<br/> <input type="checkbox"/> 12-Recovery of money/property - §547 preference<br/> <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer<br/> <input checked="" type="checkbox"/> 14-Recovery of money/property - other<br/><br/> <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b><br/> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property<br/><br/> <b>FRBP 7001(3) – Approval of Sale of Property</b><br/> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)<br/><br/> <b>FRBP 7001(4) – Objection/Revocation of Discharge</b><br/> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)<br/><br/> <b>FRBP 7001(5) – Revocation of Confirmation</b><br/> <input type="checkbox"/> 51-Revocation of confirmation<br/><br/> <b>FRBP 7001(6) – Dischargeability</b><br/> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims<br/> <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud<br/> <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny<br/> <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b><br/> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support<br/> <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury<br/> <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan<br/> <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)<br/> <input type="checkbox"/> 65-Dischargeability - other<br/><br/> <b>FRBP 7001(7) – Injunctive Relief</b><br/> <input type="checkbox"/> 71-Injunctive relief – imposition of stay<br/> <input type="checkbox"/> 72-Injunctive relief – other<br/><br/> <b>FRBP 7001(8) Subordination of Claim or Interest</b><br/> <input type="checkbox"/> 81-Subordination of claim or interest<br/><br/> <b>FRBP 7001(9) Declaratory Judgment</b><br/> <input type="checkbox"/> 91-Declaratory judgment<br/><br/> <b>FRBP 7001(10) Determination of Removed Action</b><br/> <input type="checkbox"/> 01-Determination of removed claim or cause<br/><br/> <b>Other</b><br/> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i><br/> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)           </td> </tr> </table> |  |  | <b>FRBP 7001(1) – Recovery of Money/Property</b><br><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property<br><input type="checkbox"/> 12-Recovery of money/property - §547 preference<br><input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer<br><input checked="" type="checkbox"/> 14-Recovery of money/property - other<br><br><b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b><br><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property<br><br><b>FRBP 7001(3) – Approval of Sale of Property</b><br><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)<br><br><b>FRBP 7001(4) – Objection/Revocation of Discharge</b><br><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)<br><br><b>FRBP 7001(5) – Revocation of Confirmation</b><br><input type="checkbox"/> 51-Revocation of confirmation<br><br><b>FRBP 7001(6) – Dischargeability</b><br><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims<br><input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud<br><input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny<br><div style="text-align: center;">(continued next column)</div> | <b>FRBP 7001(6) – Dischargeability (continued)</b><br><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support<br><input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury<br><input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan<br><input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)<br><input type="checkbox"/> 65-Dischargeability - other<br><br><b>FRBP 7001(7) – Injunctive Relief</b><br><input type="checkbox"/> 71-Injunctive relief – imposition of stay<br><input type="checkbox"/> 72-Injunctive relief – other<br><br><b>FRBP 7001(8) Subordination of Claim or Interest</b><br><input type="checkbox"/> 81-Subordination of claim or interest<br><br><b>FRBP 7001(9) Declaratory Judgment</b><br><input type="checkbox"/> 91-Declaratory judgment<br><br><b>FRBP 7001(10) Determination of Removed Action</b><br><input type="checkbox"/> 01-Determination of removed claim or cause<br><br><b>Other</b><br><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i><br><input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) |
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| <input type="checkbox"/> Check if this case involves a substantive issue of state law  | <input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23  |  |  |  |
| <input type="checkbox"/> Check if a jury trial is demanded in complaint  | Demand \$ 200,000.00   |  |  |  |
| Other Relief Sought  |  |  |  |  |

B1040 (FORM 1040) (12/15)

| BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES             |   |   |
|---|---|---|
| NAME OF DEBTOR<br><b>2B FARMS, a Texas General Partnership, et al</b> |   | BANKRUPTCY CASE NO.<br>23-50096 and 23-50097 (rlj12) - Jointly Administered |
| DISTRICT IN WHICH CASE IS PENDING<br>Northern                         | DIVISION OFFICE<br>Lubbock  | NAME OF JUDGE<br>Robert L. Jones  |
| RELATED ADVERSARY PROCEEDING (IF ANY)                                 |   |   |
| PLAINTIFF<br>FIRST BANK & TRUST                                       | DEFENDANT<br>2B FARMS, A TEXAS GENERAL PARTNERSHIP<br>TERRY ROBINSON and REBECCA ROBINSON | ADVERSARY PROCEEDING NO.  |
| DISTRICT IN WHICH ADVERSARY IS PENDING<br>Northern                    | DIVISION OFFICE<br>Lubbock  | NAME OF JUDGE<br>Robert L. Jones  |
| SIGNATURE OF ATTORNEY (OR PLAINTIFF)<br><br>/s/ C. Dunham Biles       |   |   |
| DATE<br>7/13/2023   | PRINT NAME OF ATTORNEY (OR PLAINTIFF)<br>C. Dunham Biles                                  |   |

## INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

|  |   |                                |
|--|---|--------------------------------|
| In re:   | § |                                |
|  | § | Chapter 12 Case                |
| 2B Farms, a Texas General Partnership, et al., | § |                                |
| <i>Debtors.</i>                                | § | Case No. 23-50096-rlj12        |
|  | § |                                |
|  | § | Jointly Administered           |
|  | § |                                |
| <hr/>  |   |                                |
| HTLF BANK,                                     | § |                                |
|  | § |                                |
| Plaintiff,                                     | § | Adv. Proc. No. _____           |
|  | § |                                |
| v.   | § |                                |
|  | § |                                |
| 2B FARMS, A TEXAS GENERAL                      | § | Removal from District Court of |
| PARTNERSHIP, TERRY ROBINSON,                   | § | Lubbock County, Texas,         |
| AND ANGELA ROBINSON,                           | § | Cause No. DC-2023-CV-0641      |
|  | § |                                |
| Defendants.                                    | § |                                |

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**NOTICE OF REMOVAL**

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PLEASE TAKE NOTICE that HTLF Bank as successor to First Bank & Trust (“HTLF Bank”) gives notice of removal of the above-captioned state court civil action from the District Court of Lubbock County, Texas, to the United States Bankruptcy Court for the Northern District of Texas, Lubbock Division, pursuant to 28 U.S.C. §§ 1452(a), 1334(b), and 157(a), and Rule 9027(a) of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”). In support of this Notice of Removal, HTLF Bank states as follows.

**Nature of Removed Action**

1. On May 22, 2023, HTLF Bank commenced Cause No. DC-2023-CV-0641 in the District Court of Lubbock County, Texas, by filing Plaintiff’s Original Petition against Defendants

2B Farms (“2B Farms”), Terry Robinson, and Angela Robinson (“Robinsons”) (collectively “Defendants”).

2. Counsel for Defendants agreed to accept service on behalf of Defendants as of May 26, 2023.

3. On June 21, 2023, 2B Farms and Terry Robinson filed a Notice of Bankruptcy Filings in this Court. Defendant Angela Robinson did not file for bankruptcy.

4. This Notice of Removal is accompanied by copy of all process and proceedings served on Defendants in the state court action pursuant to Bankruptcy Rule 9027(a)(1) and this Court’s Local Bankruptcy Rule 9027-1(c).

#### **Timeliness of Removal**

5. On May 22, 2023, HTLF Bank commenced the state court action by filing Plaintiff’s Original Petition. Counsel for Defendants agreed to accept service on behalf of Defendants as of May 26, 2023.

6. On June 1, 2023, 2B Farms filed a Voluntary Petition for Non-Individuals Filing for Bankruptcy (“2B Farms’ Petition”) under Chapter 12 with this Court in Case No. 23-50096-rlj12.

7. On June 1, 2023, Terry Robinson filed a Voluntary Petition for Individuals Filing for Bankruptcy (“Robinsons’ Petition”) under Chapter 12 with this Court in Case No. 23-50097-rlj12.

8. HTLF Bank’s state court action was pending when 2B Farms and Terry Robinson commenced their Chapter 12 bankruptcy cases with this Court. Pursuant to Bankruptcy Rule 9027(a)(2), HTLF Bank has filed this Notice of Removal: (a) before the expiration of 90 days

after an order for relief is entered by this Court; and (b) before the expiration of 30 days after entry of an order terminating a stay of the state court civil action.

9. Further, because 2B Farms and Terry Robinson's bankruptcy cases were filed under Chapter 12, any time limits in Bankruptcy Rule 9027(a)(2) associated with trustee qualification in Chapter 11 cases do not apply to this Notice of Removal.

### **Propriety of Venue**

10. Venue is proper in this Court under 28 U.S.C. § 1452(a) because the state court action has been pending in the district where this Court is located.

### **Basis of Removal**

11. Removal is proper pursuant to 28 U.S.C. § 1452(a), which provides that “[a] party may remove any claim or cause of action in a civil action . . . to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.” “[T]he district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.”<sup>1</sup>

12. 2B Farms and Terry Robinson filed their bankruptcy actions with this Court, which are now being jointly administered by this Court, under title 11 of the United States Code. This Court therefore has jurisdiction over 2B Farms and Terry Robinson's bankruptcy actions pursuant to 28 U.S.C. § 1334.

13. Prior to 2B Farms and Terry Robinson's bankruptcy filings with this Court, HTLF Bank had commenced the state court civil action against Defendants to enforce HTLF Bank's security agreement in its collateral, obtain possession of its secured collateral, and recover

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<sup>1</sup> 28 U.S.C. § 1334(b).

Defendants' indebtedness of \$203,286.88 (as of May 19, 2023) to HTLF Bank. Terry Robinson is a general partner in 2B Farms. HTLF Bank brought the state court civil action to secure its collateral, obtain repayment through liquidation and distribution of sales proceeds, and receive any other available relief.

14. HTLF Bank is a creditor of Defendants.<sup>2</sup> HTLF Bank maintains security interests in the property of 2B Farms and Terry Robinson's bankruptcy estate, including livestock (and all increase and supplies), farm products, equipment, inventory, a 2021 Chevy Tahoe, and other property of 2B Farms and Terry Robinson located primarily in Scurry County, Texas. HTLF Bank seeks to enforce those security interests in this bankruptcy action.

15. This action is a "core proceeding" within the meaning of 28 U.S.C. §§ 157(b) and 1334(b) and, to the extent this Court finds that this civil action is not a "core proceeding," the civil action is at least a "non-core proceeding" that invokes the "related to" jurisdiction of the bankruptcy courts pursuant to 28 U.S.C. §§ 157, 1334, and 1452.

16. HTLF Bank's state court civil action to enforce its security agreement in its collateral, obtain possession of its secured collateral, and recover Defendants' indebtedness is "related to" 2B Farms and Terry Robinson's bankruptcy actions as required by 28 U.S.C. § 1334(b) for this Court to exercise jurisdiction over HTLF Bank's claims.<sup>3</sup> HTLF Bank's state court civil action is "related to" 2B Farms and Terry Robinson's bankruptcy actions in this Court because the outcome of those bankruptcy actions would impact the handling and administration of their bankruptcy estates and HTLF Bank's ability to recover from those estates.

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<sup>2</sup> Although HTLF Bank is a creditor of all three Defendants, only two Defendants (2B Farms and Terry Robinson) have filed for bankruptcy. Defendant Angela Robinson has not filed for bankruptcy.

<sup>3</sup> See *In re LJM2 Co-Inv., L.P.*, 319 B.R. 495, 500 (Bankr. N.D. Tex. 2005) ("To ascertain whether bankruptcy jurisdiction exists [over a removed state court civil action], the court need only determine whether a matter is at least 'related to' the bankruptcy."); L.B.R. 9027-1(a).

17. On July 12, 2023, HTLF Bank filed proof of claim forms with this Court relating to 2B Farms and Terry Robinson. Determination of the exact amount of HTLF Bank's claims, as well as the amount of those claims that will be allowed and paid from 2B Farms and Terry Robinson's bankruptcy estate, is necessary to determine what amount, if any, HTLF Bank can recover from 2B Farms and Terry Robinson through enforcement of HTLF Bank's security interests.

18. HTLF Bank consents to entry of final orders or judgment by the bankruptcy court.

19. HTLF Bank's state court civil action is pending in the District Court of Lubbock County, Texas, which is within the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas, Lubbock Division, pursuant to 28 U.S.C. §§ 1334(b) and 157(a).

20. HTLF Bank has the right to remove its state court civil action against Defendants to this Court without consent from Defendants.<sup>4</sup>

21. HTLF Bank has paid the adversary proceeding filing fee required by this Court pursuant to 28 U.S.C. § 1930 and this Court's Local Bankruptcy Rule 9027-1(b).

22. HTLF Bank has filed with this Notice of Removal a completed Adversary Proceeding Cover Sheet pursuant to this Court's Local Bankruptcy Rule 9027-1(a).

23. HTLF Bank will provide written notice of the filing of this Notice of Removal to Defendants promptly after filing the Notice of Removal pursuant to Bankruptcy Rule 9027(b).

24. HTLF Bank will file a copy of this Notice of Removal with the Clerk of the District Court of Lubbock County, Texas, pursuant to Bankruptcy Rule 9027(c).

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<sup>4</sup> See 28 U.S.C. § 1452(a) ("A *party* may remove any claim . . .") (emphasis added); *In re Guerrero*, No. 12-35341, 2013 WL 6834642, at \*4 (Bankr. S.D. Tex. Dec. 20, 2013) ("Because any one *party* may remove an action under § 1452, consent is irrelevant.") (emphasis in original).

25. This Notice of Removal is signed pursuant to Bankruptcy Rules 9011 and 9027(a)(1).

WHEREFORE, HTLF Bank as successor to First Bank & Trust respectfully requests that the above-captioned state court civil action be removed from the District Court of Lubbock County, Texas, to the United States Bankruptcy Court for the Northern District of Texas, Lubbock Division, as provided by law.

Dated: July 13, 2023

Respectfully submitted,

**STEPTOE & JOHNSON PLLC**

/s/ C. Dunham Biles

C. Dunham Biles (TX Bar No. 24042407)

Steptoe & Johnson PLLC

500 North Akard Street, Suite 3200

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*Attorneys for HTLF Bank*



**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

|  |   |                                |
|--|---|--------------------------------|
| In re:   | § |                                |
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|  | § |                                |
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| PARTNERSHIP, TERRY ROBINSON,                   | § | Cause No. DC-2023-CV-0641      |
| AND ANGELA ROBINSON,                           | § |                                |
|  | § |                                |
| Defendants.                                    | § |                                |

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**CERTIFICATE OF SERVICE**

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I hereby certify that on July 13, 2023, a copy of this Notice of Removal was sent via ECF Noticing to all parties registered to receive CM/ECF Notices in these Chapter 12 cases.

/s/ C. Dunham Biles  
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*Attorney for HTLF Bank*